

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

TODD C. BANK,

Plaintiff,

v.

SAFE HOME SECURITY, INC.

Defendant.

Case No. 1:15-cv-06928

ANSWER

Safe Home Security, Inc., by and through its undersigned counsel, responds to the Complaint as follows:

1. Safe Home Security, Inc. denies the allegations against it in Paragraph 1 of Plaintiff's Complaint.
2. Safe Home Security, Inc. denies the allegations against it in Paragraph 2 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.
3. Safe Home Security, Inc. denies the allegations against it in Paragraph 3 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.
4. Safe Home Security, Inc. denies the allegations against it in Paragraph 4 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.
5. Safe Home Security, Inc. denies that Plaintiff is entitled to statutory damages, injunctive relief, legal fees, and costs, as alleged in Paragraph 5 of Plaintiff's Complaint.

6. Safe Home Security, Inc. denies the allegations against it in Paragraph 6 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.
7. Safe Home Security, Inc. denies the allegations against it in Paragraph 7 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.
8. Safe Home Security, Inc. denies the allegations against it in Paragraph 8 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.
9. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of Plaintiff's Complaint.
10. Safe Home admits the allegations in Paragraph 10 of Plaintiff's Complaint
11. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of Plaintiff's Complaint.
12. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of Plaintiff's Complaint.
13. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of Plaintiff's Complaint.
14. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 of Plaintiff's Complaint.
15. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of Plaintiff's Complaint.
16. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 of Plaintiff's Complaint.

17. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 of Plaintiff's Complaint.
18. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 of Plaintiff's Complaint.
19. Safe Home Security, Inc. denies the allegations against it in Paragraph 19 of Plaintiff's Complaint.
20. Safe Home Security, Inc. denies the allegations against it in Paragraph 20 of Plaintiff's Complaint.
21. Safe Home Security, Inc. denies the allegations against it in Paragraph 21 of Plaintiff's Complaint.
22. Safe Home Security, Inc. denies the allegations against it in Paragraph 22 of Plaintiff's Complaint.
23. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23 of Plaintiff's Complaint.
24. Safe Home Security, Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24 of Plaintiff's Complaint.
25. Safe Home Security, Inc. denies the allegations against it in Paragraph 25 of Plaintiff's Complaint.
26. Safe Home Security, Inc. denies the allegations against it in Paragraph 26 of Plaintiff's Complaint.
27. Safe Home Security, Inc. denies the allegations against it in Paragraph 27 of Plaintiff's Complaint.

28. Safe Home Security, Inc. denies the allegations against it in Paragraph 28 of Plaintiff's Complaint.

FIRST CAUSE OF ACTION

29. Safe Home Security, Inc. repeats and realleges the responses set forth above as if fully set forth herein.

30. Safe Home Security, Inc. denies the allegations against it in Paragraph 30 of Plaintiff's Complaint.

31. Safe Home Security, Inc. denies the allegations against it in Paragraph 31 of Plaintiff's Complaint.

32. Safe Home Security, Inc. denies the allegations against it in Paragraph 32 of Plaintiff's Complaint.

33. Safe Home Security, Inc. denies the allegations against it in Paragraph 33 of Plaintiff's Complaint.

SECOND CAUSE OF ACTION

34. Safe Home Security, Inc. repeats and realleges the responses set forth above as if fully set forth herein.

35. Safe Home Security, Inc. denies the allegations against it in Paragraph 35 of Plaintiff's Complaint.

36. Safe Home Security, Inc. denies the allegations against it in Paragraph 36 of Plaintiff's Complaint.

37. Safe Home Security, Inc. denies the allegations against it in Paragraph 37 of Plaintiff's Complaint.

38. Safe Home Security, Inc. denies the allegations against it in Paragraph 38 of Plaintiff's Complaint.

CLASS ALLEGATIONS

39. Safe Home Security, Inc. denies the allegations against it in Paragraph 39 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.

40. Safe Home Security, Inc. denies the allegations against it in Paragraph 40 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.

41. Safe Home Security, Inc. denies the allegations against it in Paragraph 41 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.

42. Safe Home Security, Inc. denies the allegations against it in Paragraph 42 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.

43. Safe Home Security, Inc. denies the allegations against it in Paragraph 43 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.

44. Safe Home Security, Inc. denies the allegations against it in Paragraph 44 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.

45. Safe Home Security, Inc. denies the allegations against it in Paragraph 45 of Plaintiff's Complaint and respectfully refers legal questions to the court for determination.

AFFIRMATIVE DEFENSES

Safe Home Security, Inc., by and through its attorneys, asserts the following affirmative defenses and reserves the right to assert additional affirmative defenses as needed and as the litigation continues:

FIRST AFFIRMATIVE DEFENSE

Plaintiff's complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part by the principles of waiver, estoppel, unclean hands, and/or other equitable doctrines.

THIRD AFFIRMATIVE DEFENSE

The damages claimed by Plaintiff are not available at law to remedy the conduct alleged.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, are the result of Plaintiffs' own actions, omissions, or conduct.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, are the result of third parties over whom Defendants have no control.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part because Plaintiff has or had a business relationship with Defendants and/or provided consent.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part because he failed to mitigate the alleged damages.

EIGHTH AFFIRMATIVE DEFENSE

Safe Home Security, Inc. cannot be held vicariously liable for the allegedly offending telephone calls because Safe Home Security, Inc. did not initiate telemarketing calls and did not exercise sufficient control over the telemarketing methods, acts and/or practices.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part because he gave express consent for the telephone calls at issue in this action.

TENTH AFFIRMATIVE DEFENSE

Defendants specifically deny that they acted with any willfulness, knowledge, or malice toward Plaintiff.

ELEVENTH AFFIRMATIVE DEFENSE

Defendants' actions enable them to avail themselves of safe harbor provisions of the TCPA.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part because he lacks standing to sue.

DEMAND FOR TRIAL BY JURY

Defendants hereby demand a jury trial of all issues in the Complaint which are triable to jury.

PRAYER FOR RELIEF

WHEREFORE, Defendants prays for an order of adjudication in their favor and against the Plaintiff as follows:

1. Dismissal of the Plaintiff's claims with prejudice and on the merits;
2. Award of Defendants' costs and reasonable attorneys' fees; and
3. Such other and further relief as this adjudicative body deems appropriate.

June 20, 2016
Westchester, NY

The Primes Law Firm

By: Brian Primes /s/
Brian Primes, Esq.
45 Knollwood Tower, Suite 203
Elmsford, New York 10523
(718) 918-9090
(718) 918-0300
Counsel for Defendant
SAFE HOME SECURITY, INC